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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

ROBERT "BOB" BURNS - Chairman
 BOYD DUNN
 SANDRA D. KENNEDY
 JUSTIN OLSON
 LEA MÁRQUEZ PETERSON

JUN 13 2019

DOCKETED BY

In the matter of

TITAN FUNDING GROUP I, LLC, an
 Arizona limited liability company,

TITAN CAPITAL REAL ESTATE FUND
 I, LLC, a Delaware limited liability
 company

TITAN CAPITAL HOLDINGS LLC, a
 Nevada limited liability company,

ADAM W. CHILD and ERIN M. CHILD,
 husband and wife,

RODERICK R. RICKERT, a single man,

Respondents.

DOCKET NO. S-21054A-18-0301

DECISION NO. 77256

**ORDER TO CEASE AND DESIST, ORDER
 FOR RESTITUTION, ORDER FOR
 ADMINISTRATIVE PENALTIES, AND
 CONSENT TO SAME**

BY: ADAM CHILD AND ERIN CHILD

Respondent Adam Child and his spouse, Erin Child ("Respondent Spouse") (together, "Respondents") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order to Cease And Desist, Order for Restitution, Order for Administrative Penalties and Consent to Same ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); admit only for purposes of this proceeding and any other proceeding in which the Commission is a party the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

I.**FINDINGS OF FACT**

- Adam Child is a married man who at all relevant times resided in Arizona.

1 2. Titan Funding Group I, LLC (“TFG”) was formed in Arizona on July 7, 2011, as a
2 member-managed company with Titan Capital as the sole member-manager.

3 3. Titan Capital Holdings LLC (“Titan Capital”) was formed in Nevada on September 8,
4 2010, and has been registered to do business in Arizona as a foreign entity since December 28, 2010.
5 The original Articles of Organization filed with the Nevada Secretary of State and the corporate filings
6 with the Commission list respondent Roderick Rickert as the managing-member of Titan Capital.

7 4. Titan Capital Real Estate Fund I, LLC (“TCREF”) is a Delaware limited liability
8 company formed on September 4, 2013. It did not register as a foreign entity in Arizona.

9 5. In its operating agreement, TCREF states that it is managed by TCG Management
10 LLC, also a Delaware company. Private placement memorandums for TCREF list Child and Rickert
11 among its key managers and employees. TCREF’s marketing materials describe TCREF’s executive
12 team, with Rickert as the CEO and Child as the President. In its private placement memorandum,
13 TCREF says that Titan Capital will originate loans on behalf of TCREF.

14 6. Respondent Spouse is an Arizona resident and has been the spouse of Child since
15 2012. Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely for purposes of
16 determining the liability of the marital community.

17 7. From 2012 through 2015, Child was acting for his own benefit and for the benefit or in
18 furtherance of his marital community.

19 8. In late 2010, Rickert created Titan Capital to make hard-money loans—i.e. loans of
20 typically less than 24 months with relatively higher interest rates—to purchasers of real property,
21 including foreclosure properties. The typical borrower would use the funds to “fix-and-flip” a
22 property, i.e. purchase a foreclosed, bank-owned or short-sale, single-family property, perform
23 maintenance and reconstruction, then sell the property. Titan Capital would secure its loan to these
24 borrowers with a mortgage or deed of trust recorded on the property. Titan Capital hired Adam Child
25 to be its president in early 2011 to operate this lending business.
26

1 9. In 2013, TFG and TCREF were created to raise funds for Titan Capital's lending
2 operations. TFG and TCREF would obtain funds from investors, pool those funds, then transfer funds
3 to Titan Capital. Titan Capital would make loans to persons to purchase properties to "fix-and-flip"
4 and Titan Capital held a first-position lien on such property. Titan Capital also lent money to persons
5 to perform construction on the properties where Titan Capital held a first-position lien. The
6 construction loan would be secured by a second-position lien.

7 10. Titan Capital would charge the borrowers an interest rate between 12% and 18%. It
8 would make its profits on the spread between this interest rate and the 10 – 11% that TCREF/TFG
9 had to pay to investors.

10 11. Titan Capital would receive a deed of trust securing the loan. Titan Capital was then
11 to enter a pledge agreement with TCREF/TFG where Titan Capital would assign its beneficial
12 interest in the deed of trust to TCREF or TFG.

13 12. Beginning in February 2013, TFG began seeking investors and offering notes to
14 potential investors.

15 13. From August 2011 through September 2015, TFG sold notes to at least 26 persons
16 for a total of at least \$2,577,429. The notes were to accrue interest at either 10% or 11% per
17 annum. TFG would pay the investor monthly interest payments for four years then a balloon
18 payment on the maturity date. These investors have received returns totaling approximately
19 \$798,220.

20 14. Beginning in October 2013, TCREF began seeking investors and offering limited
21 liability company membership interests to potential investors.

22 15. From October 2013 through September 2015, TCREF sold limited liability
23 company membership interests to at least eight persons for a total of at least \$3,794,462. TCREF
24 represented to investors that TCREF would make annual distributions to investors from TCREF
25 revenues that would equal 10% of the amount invested by each respective investor. The TCREF
26 investors have received returns totaling approximately \$688,202.

1 16. TFG and TCREF found these offerees and investors by emailing potential investors on
2 customer lists purchased from marketing firms, holding seminars, contacting existing acquaintances,
3 obtaining referrals from existing investors, and by contacting customers of Rickert's other businesses.

4 17. Child personally offered notes and membership interests to at least 17 of the TFG
5 and TCREF investors for sales totaling \$2,327,429. TCREF, TFG and Titan Capital have made
6 payments to these investors totaling \$247,556. Rickert and other TFG and TCREF employees also
7 offered notes and sold membership interests to investors of the entities as well.

8 18. On April 26, 2019, the Commission entered Decision 77160, Docket No. S-21054A-
9 18-0301, a Cease and Desist Order and Order for Restitution which found that Rickert was a control
10 person within the meaning of A.R.S. § 44-1999 for TCREF, TFG and Titan Capital, and ordered
11 Rickert to pay restitution in the principal amount of \$4,765,771.36. Rickert consented to the entry of
12 the decision. In the fact section of that order, which Rickert neither admitted nor denied, the
13 Commission found that Titan Capital transferred a net of approximately \$1.4 million to Rickert's
14 entity INFOclosure and other Rickert-controlled entities.

15 19. In TFG and TCREF private placement memorandums and offering materials, and in
16 seminars and meetings with potential and actual investors, TFG, TCREF, and Child represented
17 that Child was a competent manager with a proven track record of success in real estate financing.

18 20. Irrespective of whether Child was a competent manager, these representations
19 omitted material information that would allow investors to evaluate claims of Child's past success,
20 TFG, TCREF and Titan Capital's ability to generate returns, and Child's ability to manage a
21 company that would generate these returns. These omissions include:

22 a) On June 8, 2009, the Coconino County Superior Court entered judgment
23 against Child for \$2,957,227 which includes \$1,956,000 treble damages for fraud and
24 racketeering committed by Child in a real estate development enterprise near Flagstaff,
25 Arizona.

1 b) In 2009, Child filed for bankruptcy protection. In his bankruptcy, Child
2 sought to discharge the judgment described above along with \$2,800,004 of unsecured
3 claims which included \$263,945 of credit card debt, several deficiencies on foreclosed
4 properties totaling over \$405,000, unpaid office rent, unpaid HOA fees, a \$40,000
5 deficiency on an automobile lease, and a \$570,000 personal loan. Child's bankruptcy
6 schedules also list \$130,000 of unpaid taxes and \$60,000 of unpaid child and spousal
7 support.

8 c) On December 3, 2008, the Department of Financial Institutions found that
9 through statements made by Child, Child's company, Child Mortgage Corporation, violated
10 A.R.S. § 6-909(L) (making a false promise or misrepresentation or conceal an essential or
11 material fact in the course of the mortgage broker business), § 6-909(M) (failure to
12 truthfully account for the monies belonging to a party to a mortgage loan transaction or
13 failure to disburse monies in accordance with his agreements) and § 6-909(N) (engaging in
14 illegal or improper business practices). In a consent order signed by Child, DFI revoked the
15 entity's mortgage broker license and ordered payment of a \$2,705 penalty.

16 21. TCREF, TFG, Titan Capital, Rickert and Child represented to investors and offerees
17 that their funds would be used by Titan Capital to fund hard money loans to borrowers who purchase,
18 rehab, and sell residential properties; Titan Capital's loan would be secured by a deed of trust that
19 would be pledged to TCREF and TFG. These pledged assets would have a loan-to-value ratio low
20 enough that the sale of the secured residential properties would provide investors a return of their
21 principal.

22 22. Titan Capital, TFG, and TCREF's operations differed from these representations.
23 TCREF and TFG investor funds were commingled with Titan Capital funds in accounts that were
24 primarily controlled by Rickert, with the entities' accountant and administrator sharing signatory
25 authority over several accounts. Titan Capital spent only a portion of its funds on lending activities.
26 The entities and Rickert made extensive transfers between Titan Capital and Rickert-controlled

1 entities. Titan Capital funds went to payments that include a \$3.7 million to an equity fund, \$1.9
2 million to the development of a condominium development in Flagstaff, and approximately \$1.5
3 million to Titan Capital's management entity.

4 23. Titan Capital's assets were insufficient to pay even a fraction of the amount owed to
5 TFG/TCREF investors. In 2015, Rickert caused Titan Capital, TFG, TCREF and other related
6 entities to file for receivership. The receiver's reports show that in May 2016, Titan Capital's assets
7 consisted of four properties that the receiver sold for \$62,703 of net proceeds; interests in 10
8 performing loans producing monthly income of \$1,793; interests in four loans in default; five
9 contracts for deeds of trust; ownership of two deeds of trust; and a construction loan that later
10 netted \$32,865 for the receiver. In two years of managing the receivership, identifying and
11 liquidating the entities' assets, the receiver was only able to collect a total of \$234,191.64.

12 II.

13 CONCLUSIONS OF LAW

14 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
15 Arizona Constitution and the Securities Act.

16 2. Child offered or sold securities within or from Arizona, within the meaning of
17 A.R.S. §§ 44-1801(16), 44-1801(22), and 44-1801(27).

18 3. Child violated A.R.S. § 44-1841 by offering or selling securities that were neither
19 registered nor exempt from registration.

20 4. Child violated A.R.S. § 44-1842 by offering or selling securities while neither
21 registered as a dealer or salesman nor exempt from registration.

22 5. Child violated A.R.S. § 44-1991 by making untrue statements or misleading
23 omissions of material facts.

24 6. Child's conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-
25 2032.

26 7. Child's conduct is grounds for an order of restitution pursuant to A.R.S. § 44-2032.

1 (ii) at a rate per annum that is equal to one per cent plus the prime rate as published by the board of
2 governors of the federal reserve system in statistical release H. 15 or any publication that may
3 supersede it on the date that the judgment is entered.

4 The Commission shall disburse the funds on a pro-rata basis to investors shown on the
5 records of the Commission. Any restitution funds that the Commission cannot disburse because an
6 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an
7 investor because the investor is deceased shall be disbursed on a pro-rata basis to the remaining
8 investors shown on the records of the Commission. Any funds that the Commission determines it is
9 unable to or cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

10 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Child individually, and
11 the marital community of Child and Respondent Spouse, pay an administrative penalty in the
12 amount of \$25,000 as a result of the conduct set forth in the Findings of Fact and Conclusions of
13 Law. Payment of \$15,000 is due on the date of this Order and payment of \$10,000 is due within 90
14 days of the date of this Order. Payment shall be made to the "State of Arizona." Any amount
15 outstanding shall accrue interest as allowed by law.

16 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
17 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
18 shall be applied to the penalty obligation.

19 For purposes of this Order, a bankruptcy filing by Child shall be an act of default. If
20 Child does not comply with this Order, any outstanding balance may be deemed in default
21 and shall be immediately due and payable.



22 IT IS FURTHER ORDERED, that if Child fails to comply with this order, the Commission
23 may bring further legal proceedings against him, including application to the superior court for an
24 order of contempt.

1 IT IS FURTHER ORDERED, that no finding of fact or conclusion of law contained in this
2 Order shall be deemed binding against any respondent under this Docket Number who has not
3 consented to the entry of this Order.

IT IS FURTHER ORDERED that this Order shall become effective immediately.


BY ORDER OF THE ARIZONA CORPORATION COMMISSION

  
CHAIRMAN BURNS COMMISSIONER DUNN COMMISSIONER KENNEDY

 
COMMISSIONER OLSON COMMISSIONER MARQUEZ PETERSON



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 13 day of June, 2019.


MATTHEW J. NEUBERT
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Kacie Cannon, ADA Coordinator, voice phone number (602) 542-3931, e-mail kcannon@azcc.gov.

(RJM)

CONSENT TO ENTRY OF ORDER

1
2 1. Respondents admit the jurisdiction of the Commission over the subject matter of this
3 proceeding. Respondents acknowledge that they have been fully advised of their right to a hearing
4 to present evidence and call witnesses and they knowingly and voluntarily waive any and all rights
5 to a hearing before the Commission and all other rights otherwise available under Article 11 of the
6 Securities Act and Title 14 of the Arizona Administrative Code. Respondents acknowledge that this
7 Order constitutes a valid final order of the Commission.

8 2. Respondents knowingly and voluntarily waive any right under Article 12 of the
9 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief
10 resulting from the entry of this Order.

11 3. Respondents acknowledge and agree that this Order is entered into freely and
12 voluntarily and that no promise was made or coercion used to induce such entry.

13 4. Respondents acknowledge that they have been represented by an attorney in this
14 matter, have reviewed this Order with their attorney, **Anne Chapman of the law firm Mitchell**
15 **Stein Carey Chapman**, and understand all terms it contains.

16 5. Respondents admit only for purposes of this proceeding and any other proceeding in
17 which the Commission is a party the Findings of Fact and Conclusions of Law contained in this
18 Order. Respondents agree that they shall not contest the validity of the Findings of Fact and
19 Conclusions of Law contained in this Order in any present or future proceeding in which the
20 Commission is a party.

21 6. Respondents further agree that they shall not deny or contest the Findings of Fact
22 and Conclusions of Law contained in this Order in any present or future: (a) bankruptcy
23 proceeding, or (b) non-criminal proceeding in which the Commission is a party (collectively,
24 "proceeding(s)"). They further agree that in any such proceedings, the Findings of Fact and
25 Conclusions of Law contained in this Order may be taken as true and correct and that this Order
26 shall collaterally estop them from re-litigating with the Commission or any other state agency, in

1 any forum, the accuracy of the Findings of Fact and Conclusions of Law contained in this Order. In
2 the event Child or Respondent Spouse pursues bankruptcy protection in the future, they further
3 agree that in such bankruptcy proceeding, pursuant to 11 U.S.C. § 523(a)(19), the following
4 circumstances exist:

5 A. The obligations incurred as a result of this Order are a result of the conduct set forth
6 in the Findings of Fact and Conclusions of Law in the Order and are for the violation of Arizona
7 state securities laws, pursuant to 11 U.S.C. § 523(a)(19)(A)(i); and

8 B. This Order constitutes a judgment, order, consent order, or decree entered in a state
9 proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement agreement entered into by
10 Respondents pursuant to 11 U.S.C. § 523(a)(19)(B)(ii), and a court order for damages, fine,
11 penalty, citation, restitution payment, disgorgement payment, attorney fee, cost or other payment
12 owed by Respondents pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

13 7. By consenting to the entry of this Order, Respondents agree not to take any action or
14 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
15 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual
16 basis.

17 8. This Order resolves all claims by the Commission against Child arising from the
18 facts described in the Order. While this Order settles this administrative matter between Child and
19 the Commission, Child understands that this Order does not preclude the Commission from
20 instituting other administrative or civil proceedings based on violations that are not addressed by
21 this Order.

22 9. Child understands that this Order does not preclude the Commission from referring
23 this matter to any governmental agency for administrative, civil, or criminal proceedings that may
24 be related to the matters addressed by this Order.

1 10. Child understands that this Order does not preclude any other agency or officer of
2 the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
3 proceedings that may be related to matters addressed by this Order.

4 11. Child agrees that he will not apply to the state of Arizona for registration as a
5 securities dealer or salesman or for licensure as an investment adviser or investment adviser
6 representative until such time as all restitution and penalties under this Order are paid in full.

7 12. Child agrees and understands that with respect to his exercising any control over any
8 entity that offers or sells securities or provides investment advisory services, he is still bound by the
9 terms and conditions specified in paragraph 11 on page 16 of Commission Decision 77069, Docket
10 No. S-21018A-17-0232.

11 13. Respondents acknowledge that any restitution or penalties imposed by this Order are
12 obligations of the Child as well as the marital community.


13 14. Respondents consent to the entry of this Order and agrees to be fully bound by its
14 terms and conditions.


15 15. Respondents acknowledge and understand that if they fail to comply with the
16 provisions of the order and this consent, the Commission may bring further legal proceedings
17 against them including application to the superior court for an order of contempt.

18 16. Respondents understand that default shall render them liable to the Commission for
19 its costs of collection, including reasonable attorneys' fees and interest at the maximum legal rate.

20 17. Respondents agree and understand that if they fail to make any payment as required
21 in the Order, any outstanding balance shall be in default and shall be immediately due and payable
22 without notice or demand. Respondents agree and understand that acceptance of any partial or late
23 payment by the Commission is not a waiver of default by the Commission.

Signature page for Respondent Adam Child and Respondent Spouse


Adam W. Child, Respondent

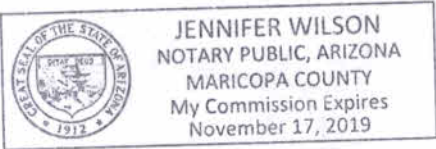

Erin Child, Respondent Spouse

STATE OF ARIZONA)
) ss
County of)

SUBSCRIBED AND SWORN TO BEFORE me this 7 day of May, 2019.


NOTARY PUBLIC

My commission expires:
November 17, 2019



SERVICE LIST FOR: Titan Funding Group, LLC *et al.*

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ROBERT "BOB" BURNS - Chairman
ANDY TOBIN
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON

DOCKET NO. S-21054A-18-0301

CERTIFICATION OF SERVICE OF PROPOSED OPEN MEETING AGENDA ITEM

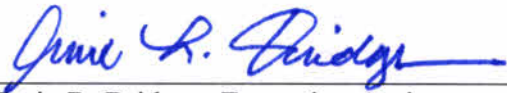
Respondents.

On this 23 day of May 2019, the foregoing document was filed with Docket Control as a Securities Division Memorandum & Proposed Order. On this date or as soon as possible thereafter, a copy of the foregoing will be mailed to the second two parties listed, who have not consented to email service.

Lee Stein
Anne Chapman
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Attorneys for respondent Adam Child and respondent spouse Erin Child

1 Roderick Rickert
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4 *Individual respondent and officer of respondent Titan Capital Real Estate Fund I*

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10 *Attorneys for receiver of respondents Titan Capital Holdings and Titan Funding Group I*

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By: 
Emie R. Bridges, Executive Assistant